IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5551 OF 2005

M/s. Rajhans Sahakari Dudh Utpadak Sanstha
Mydt. Galanwandi, & Ors. ...Petitioners
Vs.
The State of Maharashtra & Ors. ...Respondents

Mr. P.S. Dani Adv. for Petitioners
Mr. S.R. Nargolkar, A.G.P. for State, Respondent Nos.1,2,5 to 7.
Mr. C.J. Sawant Adv. with Mr. Nitin Dhumal Adv. for Respondent No.3
Mr. Vinit Naik Adv. with Mr. A.M. Kulkarni Adv. for Respondent No.4.

CORAM: F.I.REBELLO & ROSHAN DALVI, JJ.
DATED: 22ND NOVEMBER , 2005

P.C.

1. Rule. Heard forthwith.

2. The Petitioners had earlier come to this Court by way of Writ Petition, being Writ Petition No.3271 of 2004, the same was decided by order dated 28th January 2005. By that order we had issued certain directions. Pursuant to directions Respondent No.5 was appointed as an Enquiry Officer. He submitted his report. Respondent No.6 primafacie disagreed with the reports submitted by the Respondent No.5 and that forwarded the same back to Respondent No.5 for reconsideration. Consequent to that a Petition was filed before this Court and Respondent No.5 and No.6 were made parties. Both Respondent No.5 and Respondent No.6 have filed affidavits. Learned

A.A.G.P.. states that affidavit filed by the Respondent No.5 is in his personal capacity, whereas the affidavit filed by Respondent No.6 is on authorisation of the Government.

3. We have considered all the documents and the various affidavits filed and the controversy regarding the role of Respondent No.4 for the loan advanced by Respondent No.3 to Aluminium Profile Ltd. at the time Respondent No.4 was the Chairman of Respondent No.3 and presently Director. It is not necessary for us to deal with the various contentions urged by the respective parties as what the Petitioner is seeking is as an action under Section 78 of the Co-operative Societies Act.

4. Having heard Counsel for the parties and perused the documents, we think it proper that the Respondent No.2 himself should consider the report filed by Respondent No.5, the reply of Respondent No.6 including the affidavit filed in this Court and representation filed by the Pentitioner and the other material on the record and thereafter take decision under Section 78 of MCS Act. This decision should be taken not later than 10 weeks from today.

5. It is kept open to the Petitioners to file any submissions and the same should be done within 3 weeks from today and the copy of the same be given by the

Petitioners to Respondent No.4 and Respondent No.3. If Respondent No.3 and 4 wishes to file any reply they may do so within 2 weeks thereafter and supply a copy to the Petitioners. It is made clear that the decision for action under Section 78 is limited against Respondent No.4 only and not to other Directors or against Respondent No.3.

. Rule made absolute accordingly. No order as to costs.

(F.I.REBELLO J.)

(ROSHAN DALVI, J.)